
TITLE 460 DIVISION OF DISABILITY AND REHABILITATIVE SERVICES

Emergency Rule
LSA Document #12-222(E)**DIGEST**

Temporarily adds [460 IAC 13-1-1](#) concerning purpose. Temporarily adds [460 IAC 13-2-1](#) concerning applicability. Temporarily adds [460 IAC 13-2-2](#) concerning conflict with Medicaid rules. Temporarily adds [460 IAC 13-3-1](#), [460 IAC 13-3-2](#), [460 IAC 13-3-3](#), [460 IAC 13-3-4](#), [460 IAC 13-3-5](#), [460 IAC 13-3-6](#), [460 IAC 13-3-7](#), [460 IAC 13-3-8](#), [460 IAC 13-3-9](#), [460 IAC 13-3-10](#), [460 IAC 13-3-11](#), [460 IAC 13-3-12](#), [460 IAC 13-3-13](#), [460 IAC 13-3-14](#), [460 IAC 13-3-15](#), [460 IAC 13-3-16](#), [460 IAC 13-3-17](#), and [460 IAC 13-3-18](#) concerning definitions. Temporarily adds [460 IAC 13-4-1](#) concerning OBA. Temporarily adds [460 IAC 13-5-1](#) concerning algo levels. Temporarily adds [460 IAC 13-5-2](#) concerning OBA service hours. Temporarily adds [460 IAC 13-6-1](#) concerning shared staffing. Temporarily adds [460 IAC 13-7-1](#) concerning behavioral support services. Temporarily adds [460 IAC 13-8-1](#) concerning BRQ. Temporarily adds [460 IAC 13-9-1](#), [460 IAC 13-9-2](#) and [460 IAC 13-9-3](#) concerning appeals. Effective May 3, 2012.

SECTION 1. (a) This SECTION temporarily adds [460 IAC 13-1-1](#).

(b) The purpose of this document is to establish standards for determining objective based allocations for individuals receiving services administrated by the division of disability and rehabilitative services (DDRS) through the Home and Community Based Services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act.

SECTION 2. (a) This SECTION temporarily adds [460 IAC 13-2-1](#).

(b) All sections within this document apply to an individual receiving DDRS Medicaid waiver services through DDRS.

SECTION 3. (a) This SECTION temporarily adds [460 IAC 13-2-2](#).

(b) If any provision of this document is determined to be in conflict with any federal or state statute, regulation, or rule that is specifically applicable to the Medicaid program, including a Home and Community Based Services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act, then such other statute, regulation, Medicare provision, or rule shall supersede that part of this document in which the conflict is found.

SECTION 4. (a) This SECTION temporarily adds [460 IAC 13-3-1](#).

(b) The definitions in this document apply throughout this document.

SECTION 5. (a) This SECTION temporarily adds [460 IAC 13-3-2](#).

(b) "Algorithm" or "algo" means the overall algorithm level determined for an individual derived from a compilation of individual scores on broad independence, general maladaptive, health, and behavioral components assess through the inventory for client and agency planning (ICAP) and ICAP addendum.

SECTION 6. (a) This SECTION temporarily adds [460 IAC 13-3-3](#).

(b) "Behavioral needs" means target behaviors have been identified through observation or assessment. The intensity and frequency to which they exist are reflected in the ICAP and ICAP addendum.

SECTION 7. (a) This SECTION temporarily adds [460 IAC 13-3-4](#).

(b) "BMAN" means behavioral support services administrated by DDRS through the Home and Community Based Services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act.

SECTION 8. (a) This SECTION temporarily adds [460 IAC 13-3-5](#).

(b) "Budget modification request" or "BMR" means a temporary request for funds in addition to the approved allocation and notice of action.

SECTION 9. (a) This SECTION temporarily adds [460 IAC 13-3-6](#).

(b) "Budget review questionnaire" or "BRQ" means a set of qualifying questions to determine why a budget review is necessary which is submitted by the individual's case manager based on information provided by the individualized support team.

SECTION 10. (a) This SECTION temporarily adds [460 IAC 13-3-7](#).

(b) "Bureau of developmental disabilities" or "BDDS" means bureau of developmental disabilities services as created under [IC 12-11-1.1-1](#).

SECTION 11. (a) This SECTION temporarily adds [460 IAC 13-3-8](#).

(b) "Division" or "DDRS" means the division of disability and rehabilitative services created under [IC 12-9-1-1](#).

SECTION 12. (a) This SECTION temporarily adds [460 IAC 13-3-9](#).

(b) "Individual" means a person with a developmental disability who has been determined eligible for waiver services by BDDS. If the term is used in the context indicating that the individual is to:

- (1) receive information; or
- (2) provide agreement to some activity;

the term also includes the individual's legal representative.

SECTION 13. (a) This SECTION temporarily adds [460 IAC 13-3-10](#).

(b) "Inventory for client and agency planning" or "ICAP" means an assessment that determines an individual's level of functioning for broad independence and general maladaptive factors.

SECTION 14. (a) This SECTION temporarily adds [460 IAC 13-3-11](#).

(b) "ICAP addendum" means the assessment used that determines an individual's level of functioning on behavioral and health factors.

SECTION 15. (a) This SECTION temporarily adds [460 IAC 13-3-12](#).

(b) "Individualized support plan" or "ISP" means a plan that establishes supports and strategies, based upon the person centered planning process, intended to accomplish the individual's long-term and short-term outcomes by accommodating the financial and human resources offered to the individual through paid provider services or volunteer services, or both, as designed and agreed upon by the individualized support team.

SECTION 16. (a) This SECTION temporarily adds [460 IAC 13-3-13](#).

(b) "Individualized support team" or "IST" means a team of persons, including:

- (1) an individual;
- (2) the individual's representative, if applicable;
- (3) the individual's providers;
- (4) the individual's case manager, if indicated;
- (5) a BDDS representative; and
- (6) other persons identified by the individual or the individual's legal representative, if applicable;

who assist the individual in the development and implementation of the individual's ISP.

SECTION 17. (a) This SECTION temporarily adds [460 IAC 13-3-14](#).

(b) "Notice of action" or "NOA" means the document that outlines the approved service hours an individual may receive from providers.

SECTION 18. (a) This SECTION temporarily adds [460 IAC 13-3-15](#).

(b) "Objective based allocation" or "OBA" means the method used by the state to determine an individual's budget based on the level of supports an individual needs in order to live in a community setting.

SECTION 19. (a) This SECTION temporarily adds [460 IAC 13-3-16](#).

(b) "Personal allocation review" or "PAR" means a review of key documents, assessments, and events in an individual's life to substantiate an individual's algo level or recommend a change in algo level.

SECTION 20. (a) This SECTION temporarily adds [460 IAC 13-3-17](#).

(b) "PAR unit" means the group of individuals knowledgeable in the field of physical and intellectual disabilities who review all submitted pertinent information about an individual's life.

SECTION 21. (a) This SECTION temporarily adds [460 IAC 13-3-18](#).

(b) "RHS" means residential habilitation and support services administrated by DDRS through the Home and Community Based Services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act.

SECTION 22. (a) This SECTION temporarily adds [460 IAC 13-4-1](#).

(b) The OBA is determined by combining the following elements:

(1) the overall algo score, which is determined by the following:

(A) the ICAP;

(B) the ICAP addendum;

(2) age;

(3) employment; and

(4) living arrangement.

(c) When factoring in the living arrangement element, an individual's OBA will not be determined beyond living with three (3) additional housemates.

(d) OBA budgets will remain in place from year to year, unless one (1) of the four (4) determining elements changes; however, each budget shall be reviewed annually, subject to the following requirements:

(1) If a long-term change in one (1) of the four (4) determining elements occurs, a BRQ shall be submitted.

(2) If a short-term change in one (1) of the four (4) determining elements occurs, a BMR shall be submitted.

SECTION 23. (a) This SECTION temporarily adds [460 IAC 13-5-1](#).

(b) The algo levels are as follows:

(1) Algo level zero (0):

(A) high level of independence with few supports needed;

(B) no significant behavioral issues; and

(C) requires minimal residential habilitation services.

(2) Algo level one (1):

(A) moderately high level of independence with few supports needed;

(B) behavioral needs, if any, can be met with medication or informal director by caregivers through the Medicaid state plan services; and

(C) likely a need for day programming and light residential habilitation services to assist with certain tasks, but the individual can be unsupervised for much of the day and night.

(3) Algo level two (2):

(A) moderate level of independence with frequent supports needed;

(B) behavioral needs, if any, can be met with medication and/or light therapy every one (1) to two

- (2) weeks;
- (C) does not require twenty-four (24) hour supervision; and
- (D) generally able to sleep unsupervised, but needs structure and routine throughout the day.
- (4) Algo level three (3):
- (A) requires access to full-time supervision for medical and/or behavioral needs;
- (B) twenty-four (24) hours a day, seven (7) days a week staff availability;
- (C) behavioral and medical supports are not generally intense; and
- (D) behavioral and medical supports can be provided in a shared staff setting.
- (5) Algo level four (4):
- (A) requires access to full-time supervision for medical and/or behavioral needs:
- (i) twenty-four (24) hours a day, seven (7) days a week frequent staff interaction; and
- (ii) requires line of sight support;
- (B) has moderately intense needs that can generally be provided in a shared staff setting.
- (6) Algo level five (5):
- (A) requires access to full-time supervision with twenty-four (24) hours, seven (7) days a week absolute line of sight support;
- (B) needs are intense;
- (C) needs require the full attention of a caregiver with a one-to-one staff to individual ratio; and
- (D) typically only needed by those with intense behavioral needs, not medical needs alone.
- (7) Algo level (6):
- (A) requires access to full-time supervision:
- (i) twenty-four (24) hours, seven (7) days; and
- (ii) more than a one-to-one staff to individual ratio;
- (B) needs are exceptional;
- (C) needs require more than one (1) caregiver exclusively devoted to the individual for at least part of each day; and
- (D) imminent risk of individual harming self and/or others without vigilant supervision.

SECTION 24. (a) This SECTION temporarily adds [460 IAC 13-5-2](#).

(b) OBA service hours are as follows:

	ALGO Level					
Individual RHS Daily Hours	0	1	2	3	4	5 and 6
	Low	Basic	Regular	Moderate	High	Intensive and High Intensive
Living with Family	0.2	2	3	4	5	6
Living Alone	0.2	2.6	6	9	11.7	21
Living with One Housemate or Sharing Staff with One Individual	0.2	2.6	5.3	7.8	11	12
Living with Two Housemates or Sharing Staffing with Two Individuals	0.2	2.6	4.6	7.8	10.1	11
Living with Three Housemates or Sharing Staff with Three Individuals	0.2	2.4	4.3	7.3	9.4	10
BMAN Reserve (Annual hrs)	0	0	36	72	108	144
Day Service Reserve (\$/Yr)						
Not Attending School	\$ 10,500	\$ 10,500	\$ 10,500	\$ 10,500	\$ 10,500	\$ 18,000
Attending School or under 19 yrs.	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500

SECTION 25. (a) This SECTION temporarily adds [460 IAC 13-6-1](#).

(b) For individuals deemed appropriate to share staffing, it is expected that they will have

housemates or another BDDS approved staffing model.

(c) Only individuals determined by BDDS to be incapable of utilizing shared staffing may receive a budget for living alone.

SECTION 26. (a) This SECTION temporarily adds [460 IAC 13-7-1](#).

(b) An individual with behavioral needs is expected to utilize behavioral support services.

SECTION 27. (a) This SECTION temporarily adds [460 IAC 13-8-1](#).

(b) An IST may request a PAR through the case manager via a BRQ.

(c) The BRQ is submitted to the BDDS office and then to the PAR unit for review.

(d) If an individual has not received the BRQ results prior to the new plan start date, the case manager may request a BMR monthly until the BRQ results are completed by the PAR unit.

(e) The PAR unit will notify the case manager of any change in algo or allocation based on the review by the PAR unit.

SECTION 28. (a) This SECTION temporarily adds [460 IAC 13-9-1](#).

(b) If the IST is dissatisfied with a PAR, or wishes to appeal without a PAR, the IST may appeal one (1) or more of the OBA components after the NOA has been generated.

(c) A description of the appeal process shall be placed on the back page of the NOA.

SECTION 29. (a) This SECTION temporarily adds [460 IAC 13-9-2](#).

(b) If an individual's application or service is denied, the individual may file an appeal within thirty (30) days of the decision date shown on the NOA.

(c) The time limit for filing an appeal is extended by three (3) days if the NOA is sent by U.S. mail.

(d) Home and Community Based Services benefits will continue if an appeal is filed within the required time frame. If individual appeals and the individual's benefits are continued, and if the individual subsequently loses the appeal, the individual may be required to repay assistance paid on the individual's behalf, pending the release of the appeal hearing decision.

SECTION 30. (a) This SECTION temporarily adds [460 IAC 13-9-3](#).

(b) To file an appeal, an individual or the individual's representative must sign, date, and return the hearings and appeals copy of the NOA to the office of hearings and appeals.

(c) The office of hearings and appeals will contact the appellant or the appellant's representative in writing and provide notice of the time, date, and location for the hearing.

(d) Prior to, or at the hearing, the appellant or the appellant's representative shall have the right to examine the entire contents of the case record maintained by the case manager.

(e) The appellant may represent himself or herself at the hearing, or may authorize a representative to do so.

(f) At the hearing, the appellant shall have an opportunity to:

- (1) present witnesses;
- (2) establish all pertinent facts and circumstances;
- (3) advance any arguments without interference or question; and
- (4) refute any testimony or evidence presented.

SECTION 31. SECTIONS 1 through 30 of this document take effect upon filing with the Publisher.

SECTION 32. SECTIONS 1 through 30 of this document expire on June 30, 2013.

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